

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

---

**In the Matter of the Compulsory Interest Arbitration between**

**PLATTSBURGH PERMANENT FIREMEN'S  
ASSOCIATION,**

**Employee Organization,**

**-and-**

**OPINION AND AWARD**

**CITY OF PLATTSBURGH,**

**Public Employer.**

**PERB Case No.: IA2009-017; M2009-023**

---

**BEFORE:** Louis J. Patack, Esq.  
Public Panel Member and Chairperson

Mimi C. Satter, Esq.  
Employee Organization Member

Bryan J. Goldberger, Esq.  
Public Employer Member

**APPEARANCES:**

For the Plattsburgh Permanent Firemen's Association:  
Satter & Andrews, LLP  
Ross P. Andrews, Esq., of Counsel

For the City of Plattsburgh:  
Goldberger and Kremer  
Brian S. Kremer, Esq.

**BACKGROUND**

The City of Plattsburgh ("City"), located in Clinton County in northern New York, has a population of about 20,000, and during the school year, an additional 6,000 to 7,000 students

attending the State University of New York at Plattsburgh. The City covers approximately five square miles.

The City employs about 265 full-time employees, with about 94 being uniformed, 57 in the Police Department and 37 in the Fire Department.

All the uniformed members of the Fire Department, with the exception of the Chief and Assistant Chief, are in a bargaining unit represented by the Plattsburgh Permanent Firemen's Association ("Association").

The City and Association are parties to a collective bargaining agreement ("Agreement") that expired on December 31, 2007. After the parties reached impasse in their attempts to negotiate a successor agreement they entered into mediation, and when they were still unable to settle, first the City, and then the Association, filed petitions for compulsory interest arbitration with the Public Employment Relations Board ("PERB").

The undersigned, as chair, together with Mimi C. Satter, Esq., employee organization member, and Bryan J. Goldberger, Esq., public employer member, were designated by PERB to serve as the public arbitration panel to resolve the dispute.

The arbitration panel conducted a hearing on June 11, 2012, at Plattsburgh City Hall. At the hearing the parties, represented by their attorneys, presented their cases through the testimony of witnesses and extensive documentation. The attorneys also vigorously argued their positions.

Following the hearing, the parties submitted briefs, and the panel members then met in executive session on August 13, 2012. At this meeting the panelists reviewed and seriously considered all the proposals offered by the parties, the evidence produced at the hearing, and the arguments made by the parties' counsel at the hearing and in their briefs.

In considering the proposals the panel members, as required, were guided by, and applied, the criteria set forth in Section 209.4(c)(v) of the Taylor Law (New York Civil Service Law, Article 14). These are as follows:

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;
- b. the interests and welfare of the public and the financial ability of the public employer to pay;
- c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;
- d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

Although the Association made proposals that would cover a five-year period, and interest arbitration panels do agree to issue awards for longer than the two-year period allowed by Civil Service Law § 209.4(c)(vi), at the executive session the panel members agreed that the award here would be for the two years contemplated by the statute.

During bargaining both parties made numerous proposals, but, entering into this proceeding they agreed to present just 11 proposals each. Because the award expires at the end of 2009, however, and upon its receipt the parties will almost immediately be entering into bargaining for the past three years, the Chair thought it would be better to leave most of the proposals for those talks, and address here only those he deemed most vital in resolving this proceeding.

During the executive session the City and Association panel members strongly advocated for the interests of their respective parties. Although they attempted to resolve their differences, ultimately, and as reflected in the awards made below, consensus could not be reached on all items.

A discussion of the statutory criteria, the proposals on which awards are made, and the awards themselves are set forth below. Given the differences of opinion between the panel members representing the parties, it should be understood that the writing here is that of the panel chair, and that references to the panel are to a majority of the members.

#### COMPARABILITY

In making its awards CSL § 209.4(c)(v)(a) requires the panel to compare the wages, hours and working conditions of the City's employees to those of fire department employees in comparable communities.

Both parties agree that given Plattsburgh's location there are not many municipalities in the region to which it can be compared. They agree, however, that the City of Cortland, south of Syracuse, and Oswego, north of Syracuse, both of which have paid fire departments, are comparable to Plattsburgh in terms of population, per capita income, and median household and family income.

The Association would also consider as comparables Auburn, Geneva, Glens Falls, Ogdensburg and Watertown, while the City would compare itself to Amsterdam, Lackawanna, and Lockport.

#### ASSOCIATION POSITION

The Association points out that, to the extent possible, it selected cities located in northern New York because they would be more likely to have similar economic conditions, and

draw from the same workforce for their firefighters. According to the Association the cities most closely meeting these criteria are Oswego, Watertown and Ogdensburg.

The Association notes that it also tried to identify cities of similar size, in terms of population, and income level, but ultimately chose to concentrate on the later since it should reflect a municipality's ability to pay. Although the Association acknowledges that Auburn and Watertown are larger than Plattsburgh (if SUNY students are excluded), and the other cities are smaller, all of the cities it has proposed are very similar to Plattsburgh in terms of one or more of the income categories measured by the U. S. Census Bureau.

The Association argues that while the City and its comparables appear to have similar populations, when the SUNY students, who receive fire protection, are added to the City's population, it grows by 6,000 to 7,000. The Association does concede, however, that Oswego, Cortland and Geneva have their own College populations.

The Association also argues that while the City and its comparables appear to have similar income levels, the municipalities the City selected are less affluent in terms of housing prices, and their populations are less well educated. The Association contends that education and income have a strong correlation.

#### CITY POSITION

The City first argues that, leaving aside the cities both parties agree are comparable, Oswego and Cortland, those proposed by the Association are not similar to Plattsburgh in terms of population, either being larger (Auburn and Watertown) or smaller (Geneva, Glens Falls and Ogdensburg) by several thousand. The cities it has identified, however, (Amsterdam, Lackawanna and Lockport) have populations within two thousand of Plattsburgh.

The City also argues that incomes in the cities identified by the Association are not similar to those in Plattsburgh. As examples it points to Glens Falls, with much higher per capita and median household incomes, and Ogdensburg, with significantly lower incomes.

The City maintains that all of the cities it suggests as comparables have populations, and per capita and median household incomes within ten percent of those of Plattsburgh. According to the City, they were selected without regard to firefighter terms and conditions of employment, but only because they are truly comparable to Plattsburgh in terms meaningful for this proceeding.

#### DISCUSSION

It is unusual in an interest arbitration proceeding to use as a comparable a municipality located at a great distance from the one under consideration. In selecting their comparables, however, both parties were faced with the fact that Plattsburgh has few, if any, neighbors of its size. Both parties, therefore, were justified in reaching out to different parts of the state, agreeing, for example, on Cortland, south of Syracuse. Auburn and Geneva, located in the Finger Lakes, are likewise acceptable in terms of location, as are Lockport and Lackawanna, located in western New York.

Both parties argue that the cities they have selected are similar to Plattsburgh in terms of the wealth of the respective communities, and the panel agrees that this is an important factor in considering comparability. To support their positions both parties have referred to median household income figures reported by the Census Bureau. In reviewing this data, however, it quickly becomes apparent that the household incomes for both sets of comparables are almost identical. The City makes the point that the various Census Bureau income measures of its

comparables are all within ten percent of Plattsburgh, but the highest reported household income of the Association's comparables, Glens Falls, is only slightly outside this ten percent range.

While parties in interest arbitration proceedings are sometimes criticized for selecting comparables based primarily on whether the wages, benefits and working conditions of the employees in those communities support the parties' positions, here the parties appear to have made an honest effort to find comparables that, to the extent possible, are truly similar to Plattsburgh. Proof of that effort is that they each selected Oswego and Cortland.

There is a laudable, and sensible, trend in interest arbitration proceedings for panels to be more, rather than less, inclusive in considering the municipalities to be used as comparables. Here, then, while the panel has given strongest consideration to the cities on which the parties have agreed, it has also considered, as appropriate, data from the other cities the parties proposed.

#### ABILITY TO PAY

Civil Service Law § 209.4(c)(v)(b) requires the panel, in making its awards, to consider the public employer's ability to pay.

#### ASSOCIATION POSITION

The Association first makes the point that although the award here is for the 2008 and 2009 calendar years, it will be funded by current revenues, and the City is presently in excellent financial condition, and able to afford a fair wage increase, and to pay for other proposals that require funding.

In support of its position the Association relies on the testimony given at the hearing by its witness, Kevin Decker, a labor economist. Mr. Decker prepared a report for the hearing (Association Exhibit 4), and during his testimony he discussed the financial data in the various

charts contained in the report. The charts were prepared using information from the City's financial reports and its 2012 budget, Office of the State Comptroller, State Office of Real Property Services, State and Local Retirement System, Census Bureau, Social Security Administration and Moody's Investors Service.

It is not necessary to go through all Mr. Decker's testimony and his charts. In summary, it was his opinion that, at this point in time, the City is in excellent financial condition.

According to the Association Plattsburgh is more affluent, as measured by the various factors employed by Mr. Decker, than not only the cities to which it compares itself, but also to those used by the City.

#### CITY POSITION

As just noted, the City does not take issue with a general statement that its finances are now in decent condition. It makes the point, however, that this was not the case during 2008 and 2009. It also points out that it filed its own petition for interest arbitration in 2009, and that the Association refused to participate in the process until it filed its papers in October, 2011. The City argues that because the Association purposely delayed the process it should not now be able to rely on financial improvements that might have been realized by the City in 2010, 2011 and 2012.

The City also argues that because, under Civil Service Law § 209.4, the award here is limited to the two-year period 2008 and 2009, the panel should be making awards on particular items based upon the City's financial condition at that time.

The City points out that although its bond rating has improved since September, 2011, even Mr. Decker's report acknowledges that at the end of 2008 Moody's considered the City's debt position to have a "negative outlook."

The City also notes that in order to make up for declining revenues it was required to increase the total real property tax levy, and that, at a time when health insurance and pension costs have been rising steeply, state aid has been reduced and mortgage tax receipts have dropped.

#### DISCUSSION

The City argues that if this proceeding had not been delayed by the Association, the panel would have had before it a truer picture of Plattsburgh's financial picture for the two-year period of the award.

Without commenting on the issue of whether the Association was at fault in this regard, the fact is that it is not unusual for interest arbitration cases to cover periods, as does the one here, going back several years.

In many proceedings held in the recent past, during the recession, municipalities have made the argument opposite from that being made by the City. They have urged panels not to make awards based on healthy financial conditions of a few years past, before the nationwide economic crisis, but on the dismal conditions, and an inability to pay, at the subsequent time of the interest arbitration proceeding.

In those cases panels were, and continue to be, sensitive to what a municipality is able to afford at the time of the award, even though, again, the award covers a period when the municipality enjoyed greater prosperity.

Here, then, the panel chair believes that the focus should be on the City's current financial condition, which, through obvious sound management, is in as good or better shape than the cities used by both parties as comparables. Based upon all the evidence received at the hearing, the chair finds, therefore, that the City is able to fund the awards made herein. It might

be noted, however, that these awards clearly provide the Association less than it seeks in its proposals.

#### OTHER STATUTORY CRITERIA

In addition to comparability and ability to pay the panel is required to consider the interests and welfare of the public, the nature of the work bargaining unit members perform in comparison to that performed by other trades or professions, and the parties' past collective bargaining agreements.

With public safety employees such as firefighters and police the interests and welfare of the public is intertwined with the hazards of these professions. We are concerned here just with firefighters, so it is enough to point out the obvious, that is, that firefighting is an extremely dangerous profession, one in which those who fight fires regularly risk their lives to save citizens' lives and property. The panel understands that it is in the best interests of the public, therefore, to pay fair wages to its firefighters. But the panel also appreciates that it is in the public's best interests that the City continue to prudently manage its finances.

As to the parties' past agreements, it is sufficient to note that the panel has taken them, and especially the last, covering 2004 through 2007, into account in fashioning the awards.

#### AWARDS

##### 1. WAGES

##### ASSOCIATION PROPOSAL AND POSITION

The expired contract contains two salary schedules, one covering those unit employees making health insurance contributions, and those not. The schedules also cover three categories of employees: firefighter, lieutenant/corporal, and captain/sergeant. The difference in the

schedules is that the four employees who do not contribute all fall into the two highest longevity steps, those with 11 to 16 years of service, and those having over 16 years. The reason for the two schedules is that those who do contribute, and who fall within those two steps, receive slightly higher salaries than those who do not contribute.

The Association proposes increasing all steps of both schedules by 5% in each of the two years the award covers.

The Association argues that Plattsburgh seriously underpays its firefighters not only in comparison with Association comparables, but also, for the most part, with the City's. The Association also argues that Plattsburgh firefighters are dramatically underpaid in comparison to the City's police officers.

According to the Association, the disparity is especially stark for newly hired firefighters, who, if they are the sole support of a spouse and two children, qualify for food stamps at the current hiring rate.

The Association argues, as it did with ability to pay, that the City can well afford these 5% increases, even taking into consideration the 2% tax cap, and rapidly increasing health insurance and pension costs.

#### CITY PROPOSAL AND POSITION

The City acknowledges that the hire rate for its firefighters is lower than that in even some of its comparables, but argues that its employees catch up over the course of their careers, and provides examples from some of those cities.

The City also points out, as just noted, that it does confront the 2% tax cap, and pension and health insurance premium increases. It argues that there is simply no justification for the 5% increases sought by the Association.

For its part, the City has proposed creating a new salary schedule, increasing the number of years required to reach the top step, and lowering the current hiring rate. Its argument in support of this proposal is that it would result in savings that could go toward funding the awards made herein.

DISCUSSION AND PANEL DETERMINATION

Although there are certainly some exceptions, Plattsburgh firefighters, at all ranks and longevity steps, earn far less than their counterparts in the cities identified by both parties as comparables; and, as the Association argues, they are seriously underpaid in comparison to the City's police force.

The 5% increases the Association seeks would not close these gaps, but given the chair's finding that the City is in relatively healthy financial condition, an increase that would make firefighter salaries somewhat more competitive is in order.

Accordingly, and taking into consideration all of the evidence and arguments presented both at the hearing and in the parties' briefs, the panel awards as follows:

AWARD

Salaries at all steps and for all ranks shall be increased by 2.9% effective January 1, 2008, and by 3% effective January 1, 2009.

X  
Concur

          
Dissent

Mimi C. Satter  
Mimi C. Satter  
Employee Organization Member

          
Concur

X  
Dissent

Bryan J. Goldberger  
Bryan J. Goldberger  
Public Employer Member

## 2. HEALTH INSURANCE

Currently bargaining unit members hired after July 1, 1992, pay 15% of their health insurance premiums. The four employees hired prior to that date do not contribute. Employees retiring with a service-related disability, and having 10 years of service, those retiring with a non-service-related disability, and having 15 years of service, and all employees retiring into the general retirement plan having 20 years of service receive fully paid insurance. Insurance for those taking regular retirement ends upon the retiree's death.

There is a health insurance buyout in effect. Unit members electing not to participate receive annually \$1,500 for family, and \$800 for individual, coverage.

### CITY PROPOSALS

The City proposes that the four employees currently not contributing, and all retirees, begin contributing 15% of the health insurance premiums. The City also proposes that active employees and retirees not now enrolled in the self-funded indemnity or HMO plans be required to move to those plans.

### ASSOCIATION PROPOSALS

The Association proposes to eliminate any requirement that an employee retiring with a service-related disability has to work a certain number of years in order to receive insurance coverage, and that the requirement for those retiring with a non service-related disability be changed from 20 to 10 years of service.

The Association would also change the buyout figures, and have the City pay 50% of both the family and individual premiums.

## CITY POSITION

As to the active employees not making premium contributions the City argues that simple fairness and financial common sense dictate that those four should also be contributing. As to retirees the City cites to comparable municipalities in which retirees make contributions. The City also notes that its police officers, in their latest contract, agreed that all unit members hired after September 1, 2009, would pay 15% toward their premiums both as active employees and retirees.

At this time most unit members participate in the self-funded plans, and the City points out that it can recognize savings, without negatively affecting care, if all employees and retirees participate in those plans.

The City objects to increasing, at least to the level sought by the Association, the amount paid to those opting out of coverage, arguing that the figures the Association suggests are out of line with buyouts provided by other comparables and by the City to employees in other bargaining units.

## ASSOCIATION POSITION

The Association does not believe that the employees who do not currently make premium contributions should now be required to make them. The argument is that there are only four individuals now receiving fully paid insurance, and that there should be no change in this longstanding benefit either while the employees are working – which will likely be for only another few years – or in retirement.

The Association also objects to requiring retirees to make any premium contributions. It argues that fully paid retiree insurance is a commonly provided benefit, and one found in most of the contracts negotiated by the comparable municipalities and their firefighter unions.

As to its proposal reducing the number of years an employee taking disability retirement is required to work in order to qualify for retiree health insurance the Association points to comparable cities providing more generous benefits in this area than Plattsburgh, and that some provide benefits that continue upon a retiree's death.

The Association also emphasizes the hazardous nature of firefighting, and the shortened life expectancy of firefighters, and argues that both justify shortened service requirements for disabled employees to receive insurance benefits, and the continuation of benefits when a firefighter dies.

Finally, as to the proposed buyouts, the Association notes that because the current figures are so low there is not a single unit member taking advantage of this benefit. It argues that there are comparable cities paying what it seeks, that is, 50% of the premium for both single and family coverage, and that the City would also realize a savings with the new figure in place.

#### DISCUSSION AND PANEL DETERMINATION

First, the panel rejects the City's proposal that the four employees now making no premium contributions begin contributing as active employees. Because there are only four, and they are the employees with the longest service, likely to be retired in a few years, and who, the parties had previously agreed during negotiations, would not be required to contribute, there is no good reason to disturb their situation.

Because the police union, however, in its latest contract, agreed that all officers starting employment after September 1, 2009, would make 15% premium contributions both as active employees and retirees, and because it has become increasingly common for retirees to contribute, it seems fair that there be a retiree contribution here.



2. Effective the date of this award, bargaining unit members shall be required to participate in either the City's self-funded indemnity or self-funded HMO health insurance plans.

X  
Concur

\_\_\_\_\_  
Dissent

Mimi C. Satter  
Mimi C. Satter  
Employee Organization Member

X  
Concur

\_\_\_\_\_  
Dissent

Bryan J. Goldberger  
Bryan J. Goldberger  
Public Employer Member

3. Effective the date of this award, bargaining unit members electing not to participate in the City's health insurance plans shall be paid annually \$2,500 for family coverage and \$1,000 for single coverage.

X  
Concur

\_\_\_\_\_  
Dissent

Mimi C. Satter  
Mimi C. Satter  
Employee Organization Member

X  
Concur

\_\_\_\_\_  
Dissent

Bryan J. Goldberger  
Bryan J. Goldberger  
Public Employer Member

### 3. UNIFORM AND CLOTHING ALLOWANCE

Currently unit members receive \$450 annually, and the amount is added to their salaries.

#### ASSOCIATION POSITION

The Association proposes increasing the annual allowance to \$800. The Association argues that firefighters in many of the comparable cities, and Plattsburgh police officers, receive significantly higher stipends.

#### CITY POSITION

The City objects to this proposal, arguing that the Association is asking for a 77% increase in the allowance, and that, because the allowance becomes salary, it brings with it additional payroll taxes and pension contributions. The City also argues that the current

allowance is in line with what comparable cities pay, and that the benefit here is compounded because it becomes part of salary.

DISCUSSION AND PANEL DETERMINATION

Unit members have not received an increase in their uniform and clothing allowance in several years, and the panel believes that some increase, although one short of that the Association proposes, should be granted. Accordingly, the panel awards as follows:

AWARD

The uniform and clothing allowance shall be increased by \$150 effective January 1, 2008, and by another \$150 effective January 1, 2009.

<u>X</u>	<u>        </u>	<u>M. Satter</u>
Concur	Dissent	Mimi C. Satter
		Employee Organization Member

<u>        </u>	<u>X</u>	<u>Bryan J. Goldberger</u>
Concur	Dissent	Bryan J. Goldberger
		Public Employer Member

4. REMAINING PROPOSALS

That many of the proposals on which evidence, both in the form of testimony and exhibits, was received at the hearing are not addressed here should not suggest that they were not seriously considered by the panel, because they were. As noted above, however, the parties, upon the receipt of the award, will almost certainly be entering into negotiations for an agreement to take effect at the beginning of the 2010 calendar year, and those proposals not made during this proceeding, or addressed by the panel, can be taken up at that time.

The parties, therefore, should consider that the proposals presented to the panel, other than those on which awards have been made, are rejected.

X  
Concur                
Dissent

Mimi C. Satter  
Mimi C. Satter  
Employee Organization Member

X  
Concur                
Dissent

Bryan J. Goldberger  
Bryan J. Goldberger  
Public Employer Member

#### RETENTION OF JURISDICTION

The panel chair retains jurisdiction of any and all disputes arising out of the interpretation of this opinion and award.

X  
Concur                
Dissent

Mimi C. Satter  
Mimi C. Satter  
Employee Organization Member

X  
Concur                
Dissent

Bryan J. Goldberger  
Bryan J. Goldberger  
Public Employer Member

#### DURATION OF AWARD

Pursuant to the provisions of CSL § 209.4(c)(vi) the duration of this opinion and award shall be January 1, 2008 through December 31, 2009.

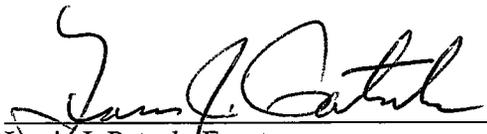
X  
Concur                
Dissent

Mimi C. Satter  
Mimi C. Satter  
Employee Organization Member

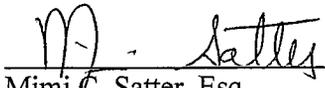
X  
Concur                
Dissent

Bryan J. Goldberger  
Bryan J. Goldberger  
Public Employer Member

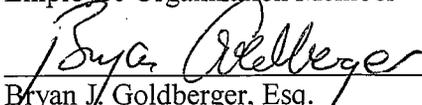
Dated: Nov. 10, 2012  
Loudonville, New York

  
Louis J. Patack, Esq.  
Public Panel Member and Chairperson

Dated: Oct. 24, 2012  
Syracuse, New York

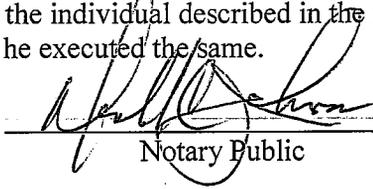
  
Mimi C. Satter, Esq.  
Employee Organization Member

Dated: Nov. 7, 2012  
Albany, New York

  
Bryan J. Goldberger, Esq.  
Public Employer Member

STATE OF NEW YORK )  
COUNTY OF ALBANY ) ss.:

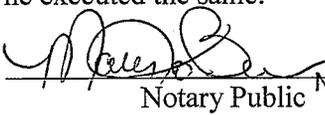
On this 10<sup>th</sup> day of ~~November~~ November, 2012, before me personally came and appeared Louis J. Patack, to me known and known to me to be the individual described in the foregoing instrument, and he acknowledged to me that he executed the same.

  
Notary Public

DONALD C. JOHNSON  
Notary Public in the State of New York  
Qualified in Rensselaer County No. 01JO4619242  
My Commission Expires August 04, 2015

STATE OF NEW YORK )  
COUNTY OF ONONDAGA ) ss.:

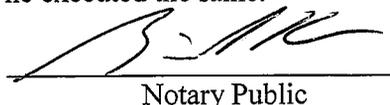
On this 21 day of October, 2012, before me personally came and appeared Mimi C. Satter, to me known and known to me to be the individual described in the foregoing instrument, and he acknowledged to me that he executed the same.

  
Notary Public

MARY JO BEAMISH  
Notary Public, State of New York  
No. 01BE495335  
Qualified in Onondaga County  
Commission Expires July 10, 2015

STATE OF NEW YORK )  
COUNTY OF ALBANY ) ss.:

On this 8<sup>th</sup> day of November, 2012, before me personally came and appeared Bryan J. Goldberger, to me known and known to me to be the individual described in the foregoing instrument, and he acknowledged to me that he executed the same.

  
Notary Public

BRIAN S. KREMER  
Notary Public, State of New York  
Reg. No. 02KR4998294  
Qualified in Albany County  
Commission Expires 6/11/14

**NEW YORK STATE  
PUBLIC EMPLOYMENT RELATIONS BOARD**

---

**In the Matter of Compulsory Interest Arbitration between**

**PLATTSBURGH PERMANENT FIREMEN'S  
ASSOCIATION, LOCAL 2421,**

**DISSENTING  
OPINION**

**Employee Organization,**

**- and -**

**CITY OF PLATTSBURGH,**

**Public Employer.**

---

I hereby respectfully dissent.

Like most municipalities throughout the State of New York, the City of Plattsburgh has experienced dramatic increases in pension and health insurance costs while at the same time suffering reductions in state aid and mortgage tax receipts. The alarming increase in personnel costs and corresponding decrease in non-real property tax revenue has required the City to increase its real property tax levy by more than \$1 million from 2008 to 2011. The recently enacted 2% real property tax cap severely limits the City of Plattsburgh's ability to raise revenue by increasing the tax levy and will undoubtedly impact the City's ability to pay the long term costs of this Award. In addition, the period covered by the Award, January 1, 2008 through December 31, 2009 was one of economic upheaval, the effects of which are still being felt today. At some point in the not – so – distant future, the increased costs resulting from this Award may require the City to consider personnel reductions. Significantly, the firefighters of the City of Plattsburgh have a no layoff clause in their collective bargaining agreement. If the City

determines that personnel reductions may be required to fund the long term costs of this Award, any staffing reductions would most likely fall upon other City employees, not firefighters.

In these extremely challenging economic times, an interest arbitration panel has an even greater responsibility to give weight to the legacy its award leaves behind. None of the interest arbitration panel members lives in the City of Plattsburgh. This fact allows a panel majority to award salary increases and other economic benefits without having to live with any of the effects of having done so. In my view, in the existing economic climate, salary increases and other economic enhancements awarded by this panel must be based on clear evidence in the record, comprehensive application of all the criteria set forth in the Taylor Law, and due consideration of the effect of the Award on the tax payers who must ultimately fund it now and in the future. With these considerations in mind, I turn to the portions of the Award from which I dissent.

#### 1. WAGES

A majority of the Panel has determined that City of Plattsburgh firefighters, at all ranks and longevity steps, earn "far less" than their counterparts in the cities identified by both parties as comparable. The majority has therefore awarded wage increases of 2.9% effective January 1, 2008 and 3.0% effective January 1, 2009. The evidence in the record does not show that City of Plattsburgh firefighters earn "far less" than their counterparts in other comparable jurisdictions. Rather, the clear evidence in the record does show that throughout the course of their employment with the City of Plattsburgh, the firefighters are paid competitively with their counterparts.

Furthermore, the raises awarded by the Panel majority will conservatively cost the City at least \$725,000 through calendar year 2012. Any subsequent negotiated or awarded raises for 2010, 2011, 2012 and thereafter will only increase that amount. The fund balance which the City has worked diligently to rebuild over the past five (5) years will be severely depleted to pay the retroactive wage increases awarded by the Panel majority. It is not inconceivable that the City's remaining unreserved fund balance may drop below recommended levels as a result of the short and long term implications of this award.

## 2. HEALTH INSURANCE

A majority of the Panel has determined not to require all firefighters, regardless of their date of hire, to contribute toward their health insurance while employed by the City. The clear evidence in the record shows that all employees of the Police Department, Municipal Lighting Department, and the Plattsburgh Public Library contribute 15% toward the cost of their health insurance coverage. All dispatchers contribute 25% toward their health insurance. The recently issued Fact-Finder's Report and Recommendation regarding the impasse in negotiations between the City and AFSCME, part of the record of this proceeding, recommended that all AFSCME employees contribute 15% toward their health insurance. Notwithstanding this clear and uncontroverted evidence, a majority of the Panel determined that "there is no good reason" to require these employees not currently making contributions to being making contributions. Not only does this determination fly in the face of what is occurring universally with health care cost sharing, but it stands in stark contrast to the evidence in the record in this case. Simply put, all other public safety employees in the City pay 15% toward the cost of their health care – why not the four (4) firefighters who are exempted by the majority's award?

### 3. UNIFORM AND CLOTHING ALLOWANCE

The current clothing allowance is \$450. A majority of the Panel has awarded an increase of \$150 effective January 1, 2008 and an additional \$150 effective January 1, 2009. In effect, a majority of the Panel has awarded a 33% increase in the uniform allowance for the first year and a 25% increase for the second year. The majority's only justification for these increases appears to be that "unit members have not received an increase in their uniform and clothing allowance for several years." This "fact", which is not contained anywhere in the record, does not provide a sufficient basis under the criteria specified in the Taylor Law for the granting of the increase.

What makes the increases in uniform and clothing allowance awarded by the Panel majority more difficult to accept is the fact that the increases have the effect of a wage adjustment: City of Plattsburgh firefighters receive their clothing allowance as part of their regular pay, not as a separate lump sum payment. Since the allowance is incorporated into firefighters' pay, the City pays FICA taxes and makes retirement system contributions on it. The result is that the cost of the uniform allowance increases is compounded and significantly greater than the amounts paid to other City employees and firefighters in comparable communities. Based upon the clear evidence in the record, the Award by the Panel majority on this issue is without basis in law or fact.

In conclusion, I do not believe that the evidence in the record and a comprehensive application of the criteria set forth in the Taylor Law support the Panel majority's award on wages, contribution toward health insurance and uniform and clothing allowance. The economic reality is that the

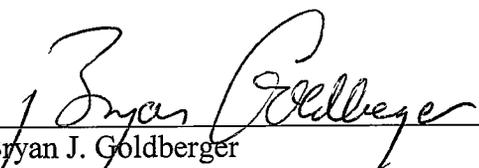
City may need to curtail services it provides to its residents in order to fully fund the skyrocketing costs of the Fire Department. The City may have to reduce services in other areas because with the minimum manning clause contained in their collective bargaining agreement, firefighters are able to withstand cuts to their staffing levels. In my judgment, the evidence in the record and consideration of the Taylor Law criteria, particularly the interest and welfare of the public, militate in favor of a lower wage increase, no adjustment to the clothing and uniform allowance and a requirement that all firefighters contribute 15% toward the cost of their health care.

The fact that the City's administration has carefully and dutifully worked to rebuild the City's fund balance does not mean that the money should be spent to increase already spiraling personnel costs.

For the reasons set forth herein, I respectfully dissent.

Date: November 8, 2012

Yours, etc.

  
Bryan J. Goldberger  
Employer Panel Member

NEW YORK STATE  
PUBLIC EMPLOYMENT RELATIONS BOARD

-----  
In the Matter of Compulsory Interest Arbitration between

PLATTSBURGH PERMANENT FIREMEN'S  
ASSOCIATION, LOCAL 2421,

Employee Organization,

**CONCURRING OPINION**

-and-

CITY OF PLATTSBURGH,

Public Employer.  
-----

Except as noted below, I agree with the majority opinion. By means of this concurring opinion, I feel compelled to respond briefly to the dissent:

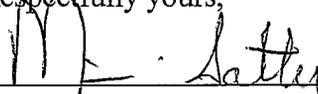
Members of the Firefighters bargaining unit have not had a pay increase since their current CBA expired on December 31, 2007. During this period all the other bargaining units within the City have received raises, at least some at or above the level being awarded herein. While the parties may differ on why there has been such a protracted delay, it is indisputable that since December 31, 2007, when the last CBA expired, the City has had an interest free loan in the form of the money which will now fund the Award. In light of same, it is hard to give credence to the City's concerns.

Relative to the one issue wherein I dissent, to wit, requiring individuals hired on or after December 31, 2009 to contribute to health insurance as retirees, I want to explain my position. These individuals were hired with a reasonable expectation they would be treated the same as other bargaining unit members. Changing their rights in midstream, even as potential retirees, is not fair or acceptable.

For the reasons set forth herein, I concur with the majority opinion, except as stated expressly herein.

DATED: November 9, 2012

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Mimi C. Satter", is written over a horizontal line.

Mimi C. Satter, Esq.  
SATTER & ANDREWS, LLP  
Attorneys for Employee Organization  
217 S. Salina Street, 6<sup>th</sup> Floor  
Syracuse, New York 13202  
Tel.: (315) 471-0405  
Fax: (315) 471-7849